

**VOLUNTARY CLEANUP CONTRACT
05-5633-NRP**

**IN THE MATTER OF
FORMER SODETAL USA SITE, GREENVILLE
and
ARE HOLDINGS, LLC AND APPALACHIAN ENGINEERED FLOORS, INC.**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and ARE Holdings, LLC and Appalachian Engineered Floors, Inc., pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2005), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C §§ 9601, et seq., and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200, with respect to the property located at 110 Milacron Drive, Fountain Inn, South Carolina. The Property includes 63 acres and is bounded generally by Milacron Drive to the south, and undeveloped wooded land to the west, north, and east. The terms and conditions of this Contract shall be consistent with the "Information and Certification" submitted September 30, 2005 by ARE Holdings, LLC and Appalachian Engineered Floors, Inc., which is incorporated into this Contract and attached as Appendix A. A legal description of the Property is incorporated into this Contract and attached as Appendix B.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, including any amendments, or in the regulations promulgated thereunder.

- A. "ARE Holdings and Appalachian" shall mean ARE Holdings, LLC and Appalachian Engineered Floors, Inc.
- B. "Bona Fide Prospective Purchaser" shall mean a person, or a tenant of that person, who acquires ownership of a facility after the date of enactment of the Brownfields Amendments (January 11, 2002), and by a preponderance of the evidence establishes the following:

- a. Disposal at the facility occurred prior to acquisition;
- b. The person made all appropriate inquiry into previous ownership and uses of the facility in accordance with generally accepted practices and in accordance with the new standards contained in CERCLA Section 101(35)(B);
- c. The person provides all legally required notices with respect to the hazardous substances found at the facility;
- d. The person exercises “appropriate care” with respect to the hazardous substances found at the facility by taking “reasonable steps” to:
 - i. Stop any continuing releases;
 - ii. Prevent any threatened future release;
and
 - iii. Prevent or limit human, environmental or natural resource exposure to any previously released hazardous substance;
- e. The person provides full cooperation and access to the facility to those authorized to conduct response actions;
- f. The person is in compliance with any land use restrictions and does not impede the effectiveness or integrity of any institutional control;
- g. The person complies with any information request or administrative subpoena under CERCLA; and
- h. The person is not potentially liable for response costs at the facility or “affiliated” with any such person through:
 - i. Direct or indirect familial relationship, or
 - ii. Any contractual, corporate or financial relationship (excluding relationships

created by instruments conveying or financing title or by contracts for sale of goods and services).

- C. "Contract" shall mean this Voluntary Cleanup Contract.
- D. "Department" shall mean the South Carolina Department of Health and Environmental Control.
- E. "Existing Contamination" shall mean any hazardous substances, pollutants or contaminants (as defined herein), present or existing on or under the Site as of the execution date of this Contract.
- F. "Hazardous Substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)], (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)], (E) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

- G. "Non-Responsible Party" shall mean any party which is neither:
- a. A responsible party at the time the voluntary cleanup contract is signed, nor
 - b. A parent, subsidiary of, or successor to a responsible party. Non-Responsible Parties may include lenders, economic development agencies, fiduciaries, trustees, executors, administrators, custodians, and subsequent holders of a security interest.
- H. "Oversight Costs" shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract and any future amendments thereto.
- I. "Pollutant or Contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; "contaminant" does not include petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA, Section 101, 42 U.S.C. Section 9601, et seq. and does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.
- J. "Property" shall mean the 63 acres identified on Tax Map 0562010101300 of the Site that is subject to ownership, prospective ownership, or possessory or contractual interest of a Responsible

Party or a Non-Responsible Party.

- K. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- L. "Responsible Party" shall mean:
 - a. The owner and operator of a vessel, as defined in CERCLA Section 101 (28), or a facility;
 - b. Any person who, at the time of disposal of any hazardous substance, owned or operated any facility at which such hazardous substances were disposed of;
 - c. Any person who, by contract, settlement, or otherwise, arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by such a party or entity and containing such hazardous substances; and/or
 - d. Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels, as defined in CERCLA Section 101 (38), or sites selected by such person from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance.
- M. "The Site" shall mean the facility located at 110 Milacron Drive, Fountain Inn, South Carolina, and all areas where a contaminant has been released, deposited, stored, disposed of, placed, or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA Section 101 (28).

- N. "Voluntary Cleanup" shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002).
- O. "Work Plan" shall mean the plan for additional response actions to be conducted at the Property as described in Paragraph 5 of this Contract.

2. Based on the information known by and/or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. The ownership history of the Property is as follows:

Sodetal, USA	December 2004 – present
Greenville County	December 1996 – December 2004
Sodetal, USA	October 1995 – December 1996
Cincinnati Milacron	August 1980 – October 1995
Walter Smith, Jr.	unknown – August 1980

Greenville County owned the Property from December 1996 until December 2004 under a fee-in-lieu of taxes transaction in which Sodetal sold the Property to Greenville County and Greenville County then leased the Property to Sodetal, and Sodetal operated the facilities on the Property during that time period.

Historic aerial photographs indicate the Property was undeveloped land from 1959 to the 1980's. The surrounding land appeared to have been primarily agricultural and/or undeveloped woodland. In the late 1980's, the subject Property appeared to have been developed for industrial use. Historical records indicate that the Property was developed with the current manufacturing building in 1980 by Cincinnati Milacron and used to manufacture machining equipment.

Historic operations conducted by Cincinnati Milacron included the use of a system of floor drains for recycling of spent machining fluids to an on-site treatment plant which consisted of 1) a Henry Filter that physically separated metal shavings and grinding materials from the machining fluids, and 2) a concrete pit which received effluent from the Henry Filter. In addition, a system of subgrade paint chip pits were also utilized at the facility. Two 6,000-gallon Underground Storage Tanks (USTs) that contained solvents used in the manufacturing process were utilized by Cincinnati Milacron. These USTs were closed by removal in early 1995 by Cincinnati Milacron. A UST closure report conducted by Petroleum Works indicates from photographs taken from the tank pit that discolored soils existed around the intake pipe to the tanks. Although soil samples were taken around the sides of the excavation, no soil samples were collected from the bottom of the tank pit as required by current state regulations.

Cincinnati Milacron stored drums containing waste cutting oils and other fluids on a concrete pad outside of the plant. The drums leaked and spilled oils over the parking lot into a drainage swale at the edge of the parking lot. Beginning in late 1994, Cincinnati Milacron assessed the extent of the impacted soils and determined that a composite sample (collected from six grab samples) contained 4,330 mg/kg Total Petroleum Hydrocarbons (TPH). Subsequently, 91.64 tons of impacted soils were excavated to a depth of one foot and the ditch and channel were scraped. The soils were transported and remediated off-site. Soil borings subsequently conducted to a depth of two – three feet below ground surface showed TPH levels of 5.9 – 6.3 mg/kg. Further subsequent soil samples collected from the

excavated surface were composited and determined to be non-detect for TPH.

Cincinnati Milacron also assessed an area on the west side of the manufacturing building where an oil and water coolant tank reportedly overflowed. Initial soil samples collected showed surface concentrations of TPH at 23,800 mg/kg. A soil sample from three feet below grade returned a TPH concentration of 119 mg/kg. Subsequently, 13.31 tons of impacted soils were excavated to a depth of four feet. Confirmation samples were not collected.

When Sodetal, USA acquired the Property, the building was used to manufacture draw wire for use in the manufacture of automotive tires. The process was a cold process, and there was no heating involved in manufacturing operations. Specifically, the process included the use of a non-hazardous soap/water mixture to cool and lubricate the wire drawing operations. Solvents were used on site in the machine shop for machine repairs and a 5,200-gallon above ground storage tank was used to store waste coolant that was subsequently pumped out and disposed of by Piedmont Industries.

Under Sodetal, USA's ownership, the Henry Filter, paint chip pits, and floor drains were abandoned in late 1995. In conjunction with the closure of the existing floor drains, three soil samples from beneath the trench system and two samples from beneath the Henry Filter recovery pit were collected. The samples were analyzed for total petroleum hydrocarbons (TPH). TPH was detected in two of the five samples at concentrations of 59 and 64 mg/kg. New floor trenches designed to handle fluids used in the wire-drawing process were subsequently installed, and the fluids were transported through pipes

laid in the floor trenches to a stainless steel treatment tank located in the basement on the west side of the main building.

The recovery pit (associated with the Henry Filter) was abandoned in 1999 by filling in with clean fill. A groundwater sample collected at the bottom of the pit was analyzed for volatile and semi-volatile organic compounds, RCRA metals, and TPH. Of these sampled constituents, Barium was detected at a concentration of 0.06 mg/l and lead was detected at a concentration of 0.02 mg/l.

- B. A Phase I Environmental Site Assessment (Phase I) was conducted in September 2005 by Advantage Environmental Consulting, Inc. At the time of the field reconnaissance, no additional recognized environmental concerns were noted.
- C. ARE Holdings and Appalachian intend to use the existing building for corporate offices, show rooms, warehousing, and research and development for solid wood and laminated wood flooring products.

3. The terms and conditions of this Contract apply to and shall inure to the benefit of each signatory and its Non-Responsible Party lenders, parents, subsidiaries, successors and assigns, and upon any successor agency of the State of South Carolina that may have responsibility for and jurisdiction over the subject matter of this Contract.

4. ARE Holdings, LLC is a South Carolina limited liability company with its principal place of business located at 384 Torrington Road, Clinton, South Carolina. Appalachian Engineered Floors, Inc. is a South Carolina corporation with its principal place of business also located at 384 Torrington Road, Clinton, South Carolina. ARE Holdings and Appalachian are Non-Responsible Parties at the Site; are not parents, successors, or subsidiaries of a Responsible Party at the Site; and certify that they are eligible to be Bona

Fide Prospective Purchasers for the Property. ARE Holdings and Appalachian have had no previous involvement with the Site, including but not limited to any such activities that may have resulted in any Existing Contamination at the Site.

5. ARE Holdings and Appalachian agree to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Property that is consistent with the technical intent of the National Contingency Plan. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:

- A. Prior to conducting site assessment activities, the existing above ground storage tanks (ASTs) and any other items that are potential sources of hazardous substances present on the Property shall be characterized. If ARE Holdings and Appalachian determine that they will not use the ASTs, then ARE Holdings and Appalachian will either close the ASTS that will not be reused, or remove them from the Property for proper use or disposal in accordance with applicable regulations. Records documenting characterization and disposal of these items shall be provided to the Department within the report documenting Work Plan activities. Should any release of hazardous substances occur or be identified during removal of these items, ARE Holdings and Appalachian shall immediately notify the Department and shall assess the impact of the release in accordance with a Department approved plan.
- B. ARE Holdings and Appalachian shall assess groundwater quality and flow direction across the Property to determine the lateral and vertical extent of any hazardous substances present in groundwater on the

Property. Assessment shall include installation and sampling of a minimum of five (5) monitoring wells. The Work Plan shall propose specific locations and construction details of monitoring wells designed to detect any release of hazardous substances based on site history and present conditions regarding potential contaminant sources. Approximately 20% of groundwater samples shall be analyzed for all parameters on the EPA Target Analyte List and Target Compound List (TAL/TCL). All other groundwater samples shall be analyzed for TAL total metals (unfiltered), volatile organic compounds (VOC), and semi-volatile organic compounds (SVOC). Groundwater quality shall be assessed immediately downgradient of each of the following identified potential contaminant source areas. Single monitoring wells may target potential contaminant source areas that are in proximity.

- a. Former Underground Storage Tanks (USTs): Two 6,000 gallon tanks were located on the east side of the plant; one tank was used for petroleum based solvent (possibly naphthalene) product and the second UST held spent solvent.
- b. Above Ground Storage Tanks (AST): Two storage tanks located outside on the west side of the plant building; one tank was for new cutting fluids and the second tank was for used (spent) cutting fluids;
- c. Waste Coolant AST: This 5,200-gallon tank with secondary containment located outside on the west side of the plant was used to store spent lubricant and spent coolant. The coolant, which is reported to be primarily distilled water and a small amount of soap, could contain metals extracted during the extrusion process.
- d. Laboratory Waste AST: The 1,800 gallon tank located outside the laboratory area may have received waste generated during

product testing in the laboratory. Chemicals stored in the laboratory included tetrachloroethylene, sodium hydroxide, hydrochloric acid, reagent alcohol, nitric acid and ammonium hydroxide.

- e. Former Cincinnati Milacron Floor Drains, Henry Filter Pit and Paint Chip Pits: Although these structures are reported to have been filled with concrete, each could be considered a historical potential source of groundwater contamination. The floor drains and the Henry Filter are generally located in the southwestern portion of the manufacturing building or outside the western wall and the subgrade paint chip pits are located in the building along its eastern side.
- f. Drum Storage Area/North Fence Line Area: Drums containing waste cutting oils and other fluids were stored outside the north side of the plant on a concrete pad. Due to spills, in 1995 soil was excavated to a depth of one (1) foot below land surface (bls), the ditch and channel were scraped, and a sample was collected from the drainage swale at the parking lot edge. Two additional small areas were scraped to a 0.5 foot depth. One of these areas was adjacent to the storm drain while the second area was adjacent to a cooling unit.
- g. Mineral Oil and Water Coolant Tank: This tank was located outside on the west side of the building where an overflow resulted in the excavation of soils to a depth of four (4) feet bls. Elevated concentrations of total petroleum hydrocarbons (TPH) were detected.
- h. Floor Drains: There have been two sets of floor drains in the manufacturing building. The Cincinnati Milacron floor drains identified above and the existing floor drains used by Sodel, USA, which house pipelines that carry fluids. Appropriate

location(s) to further evaluate floor drains beneath the building should be proposed.

- C. Groundwater quality results shall be compared to State Primary Drinking Water Regulations set forth in R.61-58. Groundwater samples collected for TAL metals analysis must be for total metals (unfiltered).
- D. Based on the results of groundwater assessment, implementation of a Department approved groundwater monitoring program may be required. If a groundwater monitoring program is not required and the Department determines that there are no further needs for any installed permanent groundwater monitoring wells (including the reported existing well) ARE Holdings and Appalachian shall abandon the monitoring wells in accordance with R.61-71 of the South Carolina Well Standards and Regulations, dated April 26, 2002.
- E. ARE Holdings and Appalachian shall conduct assessment of surface and subsurface soil to characterize the nature and extent of any release of hazardous substances from potential contaminant source areas on the Property. A minimum of 20% of the surface and subsurface soil samples shall be analyzed for all TAL/TCL parameters. The remaining samples shall be analyzed for TAL metals, VOCs and SVOCs, at a minimum. Surface and/or subsurface soil samples shall be collected at the following locations, at a minimum:
 - i. Drainage Features: Propose surface soil samples to target drainage features from the Drum Storage Area, the North Fence Line Area, along with the area on the western side of the building where there is a plastic fluid discharge pipe leading from the recirculating pit. The “recirculating pit” is assumed to be the recovery pit that received waste from the

Henry Filter.

- ii. Former Underground Storage Tanks (USTs): Subsurface soil samples shall be collected from native soil at a depth below the base of the excavation conducted during tank removal (closure). Samples may be collected during installation of a monitoring well at this location.
 - iii. Mineral Oil and Waste Coolant Tank: Subsurface soil samples shall be collected from native soil at a depth below the four-foot excavation conducted to remove soils impacted by spill(s). Samples may be collected during installation of a monitoring well at this location.
 - iv. Drum Storage Area: Subsurface soil samples (below two feet) shall be collected from native soil in the area excavated in 1995. Samples may be collected during installation of a monitoring well in this location.
- F. Surface soil quality results shall be compared to EPA Region IX Preliminary Remediation Goals (PRGs) for residential and industrial exposure and EPA Region IX Soil Screening Levels for Contaminant Migration to Groundwater (SSLs) with a dilution/attenuation factor (DAF) of 20. Subsurface soil quality results shall be compared to the SSL values.
- G. Based on the results of the initial assessment, additional assessment may be required to determine the extent of contamination on the Property. Additional assessment may also be needed to identify any remedial actions that may be necessary to mitigate ongoing contaminant releases and make the Property suitable for its intended future use.
- H. Should the results of assessment activities as described above

indicate that hazardous substances exist in soil on the Property in excess of appropriate risk-based standards or appropriate standards for migration to groundwater, ARE Holdings and Appalachian agree to take reasonable steps, approved by the Department, to address the soil contamination in a manner that is protective of human health and the environment.

- I. Should any evidence of a release of hazardous substances not previously identified be discovered at any phase of assessment or redevelopment of the Property, ARE Holdings and Appalachian shall immediately notify the Department and shall conduct additional assessment in accordance with a Department approved plan, if necessary.

The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the South Carolina certified analytical laboratory, and ARE Holdings and Appalachian's contact person for matters relating to this Contract. ARE Holdings and Appalachian will notify the Department in writing of changes in the contractor or laboratory. The Department will review the Work Plan and will notify ARE Holdings and Appalachian in writing of any deficiencies in the Work Plan, and ARE Holdings and Appalachian shall respond in writing within thirty (30) days to the Department's comments.

6. Attached to the Work Plan but under separate cover shall also be a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations.

7. Within thirty days of Work Plan approval and quarterly thereafter, ARE Holdings and Appalachian shall submit to the Department's project manager a written progress report that must include the following: (a) actions taken under this Contract during the previous reporting period; (b) actions scheduled to be taken in the next reporting period; (c)

sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (d) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

8. As provided for by S.C. Code Ann. § 44-56-200 and S.C. Code Ann. § 44-56-750 (D) (2005), ARE Holdings and Appalachian shall, on a quarterly basis, reimburse the Department for oversight costs of activities required under this Contract. Oversight costs include but are not limited to the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work, and public participation. Payments will be due within thirty (30) days of receipt of the Department's invoice.

9. Two (2) years after the execution date of this Contract, ARE Holdings and Appalachian shall provide the Department with the following information concerning the new operation at the Property: the number of jobs created; the amount of increase to the tax base; the amount of soil removed or remediated, if necessary; cost of all environmental work; total investment in the site; and any other information that demonstrates that the activities performed pursuant to this Contract have been beneficial to the State, the community, and the Department.

10. Subject to the provisions of Paragraph 18 of this Contract, nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or equity, that the Department may have against any person, firm, corporation, potentially responsible party, or other entity not a signatory of this Contract.

11. Nothing in this Contract is intended to limit the right of the Department to undertake future response actions at the Site or to seek to compel parties other than ARE Holdings and Appalachian to perform or pay for response actions at the Site. Nothing in this

Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law. ARE Holdings and Appalachian acknowledges that it is acquiring property where response actions may be required.

12. Upon written notification to the Department, the rights and obligations of this Contract shall also inure to a new purchaser, lessee, parent, subsidiary, or successor, but only to the extent that the new purchaser, lessee, parent, subsidiary, or successor has never been a Responsible Party at the Site.

13. The Department, its authorized officers, employees, representatives, and all other persons performing response actions will not be denied access to the Property during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). ARE Holdings and Appalachian shall ensure that a copy of this Contract is provided to any current lessee or sublessee on the Property as of the execution date of this Contract. ARE Holdings and Appalachian shall also ensure that any subsequent leases, subleases, assignments or transfers of the Property occurring during ARE Holdings and Appalachian' ownership of the Property are consistent with this Paragraph.

14. ARE Holdings and Appalachian shall preserve all drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site that may provide environmental information, evidence of a Potentially Responsible Party's involvement at the Site, or may lead to the discovery of other areas of contamination at the Site. Prior to destruction of any such items, ARE Holdings and Appalachian shall notify the Department of their location and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense.

15. ARE Holdings and Appalachian shall inform the Department at least five (5) working days in advance of all field activities pursuant to this Contract and shall allow the Department and its authorized representatives, if so desired, to take duplicates of any samples collected by ARE Holdings and Appalachian pursuant to this Contract.

16. The Department and ARE Holdings and Appalachian recognize that public participation is an important component of the Voluntary Cleanup Contract in order to further public acceptance of the project. The Department and ARE Holdings and Appalachian will undertake necessary steps to foster opportunities for the public to be aware of the project. Specific functions of each signatory party to the Contract are as follows:

- A. The Department will seek public comment in accordance with S.C. Code Ann. § 44-56-750 (2005) as outlined below:
 - a. Upon signature of this Contract by ARE Holdings and Appalachian, the Department will provide notice for public participation by placing announcements describing the proposed Contract in newspaper(s) of general circulation within the affected community. A thirty-day period following the publication date of the announcement(s) will be provided for public comment and will precede the Department's scheduled date for execution of the Contract.
 - b. The Department may publicize the proposed Contract by any other means including, but not limited to, electronic mail, news releases, community flyers, and door-to-door canvassing. Such actions may be done solely at the Department's discretion.
 - c. A public informational meeting will be held if requested by twelve residents of South Carolina or an organization representing twelve or more residents of South Carolina. At the Department's discretion, public informational meetings may be held in the nearby communities for any other reason prior to the Department executing the contract. A

public meeting may be requested at any time during the thirty-day comment period. In the event that a public meeting is deemed necessary, the Department will provide approximately two weeks advance notice of the meeting to the public and will extend the public comment period at least through the end of the day following the public meeting. The Department will not execute the contract during any public comment period. In addition, the Department may, at its discretion, conduct public meetings to inform the community about the site at any time after the contract is executed until the certificate of completion is issued.

- B. ARE Holdings and Appalachian agrees to enhance the public knowledge of the site response activities by:
- a. Erecting a sign(s) at each entrance onto the reference property from any public road, thoroughfare, navigable waterway, or other location routinely accessible by the public. The sign(s) shall be erected not later than one day after publication of any public announcement about the site placed by the Department in any newspaper of general circulation in the community.
 - b. The sign will state “Voluntary Cleanup Project by ARE Holdings, LLC and Appalachian Engineered Floors, Inc. under Voluntary Cleanup Contract (05-5633-NRP) with the South Carolina Department of Health and Environmental Control.” The sign shall provide a brief description of the scope of activities under the NRP contract and contact information for a representative of ARE Holdings and Appalachian and the Department’s Toll Free Telephone number 866-576-3432. All required lettering on the sign must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the site without intruding onto the subject property.
 - c. Within 10 days after erecting the sign, ARE Holdings and Appalachian

shall furnish to the Department photographs of the sign along with a site location drawing showing the sign location(s). Photograph(s) of the sign(s) shall be taken from no closer than the edge of the publicly-accessible road, waterway, etc. and should include an appropriately sized scale reference so that Department may determine the size of the sign and effectiveness of the lettering. ARE Holdings and Appalachian agrees to revise the sign if the Department determines the sign is not legible.

- d. ARE Holdings and Appalachian must maintain the sign(s) in legible conditions and visible locations throughout the duration of the contract period until a certificate of completion is issued on the site.
- e. In the event that any sign must be removed to accommodate building or grading activities, ARE Holdings and Appalachian shall replace the sign within two days. If the sign cannot be restored to the original location, ARE Holdings and Appalachian may relocate it to another location meeting the conditions specified above.

- C. All costs incurred by the Department for public participation [e.g., public notice(s), building and equipment rental(s) for public meetings, etc.] will be paid by ARE Holdings and Appalachian.

17. The Department and ARE Holdings and Appalachian agree that the following are entitled to protection from contribution claims as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 and S.C. Code Ann. § 44-56-750 (2005): ARE Holdings and Appalachian, its Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns. A thirty (30) day comment period for contribution protection commences upon notice of this Contract to Responsible Parties at the Site as identified by the Department through a reasonable search effort.

18. The Department and ARE Holdings and Appalachian agree that the following are entitled to protection from third-party claims for equitable relief or damages relating to

"Existing Contamination" at the Site, as provided by S.C. Code Ann. § 44-56-750 (2005): ARE Holdings and Appalachian, its Non-Responsible Party lenders, signatories, parents, subsidiaries and successors. This limitation on liability does not apply to any contamination caused by ARE Holdings and Appalachian or its lenders, signatories, parents, subsidiaries, or successors. Furthermore, this limitation of liability is effective on the date this contract is executed by the Department, but will be automatically withdrawn if this contract is lawfully terminated by either party.

19. Upon successful completion of the terms of this Contract as referenced in Paragraph 5 above, ARE Holdings and Appalachian shall submit to the Department a written notice of completion. Once the Department acknowledges satisfactory completion of the Contract terms, the Department, under its authority to enforce CERCLA, 42 U.S.C. §§ 9601, et seq., pursuant to the HWMA, S.C. Code Ann. § 44-56-200, will give ARE Holdings and Appalachian a Certificate of Completion that provides a covenant not to sue ARE Holdings and Appalachian, their Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns for Existing Contamination, except for releases and consequences that ARE Holdings and Appalachian causes. In consideration of this liability protection from the Department, ARE Holdings and Appalachian agrees not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

20. If hazardous substances in excess of residential standards exist at the Property after ARE Holdings and Appalachian has completed the actions required under this Contract, land use restrictions shall be defined in the Certificate of Completion and the Department shall enter into a restrictive covenant with ARE Holdings and Appalachian. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and representatives of ARE Holdings and Appalachian and witnessed, signed, and sealed by a notary public. ARE Holdings and Appalachian shall file this

restrictive covenant with the Register of Mesne Conveyance or Deeds in Greenville County. The signed covenant shall be incorporated into this contract as an Appendix. With the approval of the Department, the restrictive covenant may be modified in the future if: (a) additional remedial activities are carried out which meet appropriate clean up standards at that time; (b) a significant change in law requiring remediation occurs; or (c) circumstances change such that the restrictive covenant would no longer be applicable.

21. ARE Holdings and Appalachian each specifically deny any responsibility for response costs or damages resulting from Existing Contamination and does not, by signing this Contract, waive any rights that it may have to assert any claims in law or equity against any other person, company, or entity with respect to the Site. However, ARE Holdings and Appalachian are responsible and liable for any and all contamination they cause or contribute to the Site. Should environmental contamination neither previously-identified nor identified during the performance of response actions required under this Contract be discovered at the Site after the execution date of the Certificate of Completion, the burden is on ARE Holdings and Appalachian to demonstrate to the Department's satisfaction that the contamination was not caused by ARE Holdings and Appalachian.

22. ARE Holdings and Appalachian and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Contract to the other party. Should ARE Holdings and Appalachian elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that no environmental or physical hazards exist at the Site as a result of ARE Holdings and Appalachian's actions. The Department may terminate this Contract only for cause, which may include but is not limited to the following: (a) events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract; (b) failure to complete the terms of this Contract; or (c) additional contamination of the Site caused by ARE Holdings and Appalachian.

23. If ARE Holdings and Appalachian provide the Department with false or incomplete information, or if ARE Holdings and Appalachian's business activities on the Property or use of the Property change such that they are inconsistent with the terms and conditions of this Contract, then the releases/contribution protection extended to ARE Holdings and Appalachian, its Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns, shall become null and void.

24. ARE Holdings and Appalachian acknowledges that the Department will not grant or will revoke liability protection if ARE Holdings and Appalachian acquire the Contract or a Certificate of Completion by fraud, misrepresentation, knowing failure to disclose material information, or failure to satisfactorily complete the terms of this Contract.

25. All correspondence which may or are required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by (i) regular U.S. mail, (ii) certified or registered mail, postage prepaid, return receipt requested, (iii) by nationally recognized overnight delivery service company or (iv) by telephone facsimile addressed to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing.

The Department (including five (5) copies of all work plans and reports):

Ms. Jo Cherie Overcash
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

ARE Holdings and Appalachian

Donald R. Finkell
ARE Holdings, LLC

384 Torrington Road
Clinton, South Carolina 29325

Any notice given hereunder shall be deemed delivered when, if sent by mail, the return receipt is signed or refusal to accept the notice is noted thereon or, if sent by recognized overnight courier when the notice is actually delivered or refused as reflected in the courier company's delivery records or if sent via facsimile upon receipt of confirmation by the sender that the facsimile has been received.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL**

BY: _____
Robert W. King, Jr., P.E.
Deputy Commissioner
Environmental Quality Control

DATE: _____
Columbia, South Carolina

Patrick T. (Pat) Walker, Chief
Bureau of Land and Waste Management

DATE: _____

Approved by Legal Office

DATE: _____

ARE HOLDINGS, LLC

Signature

DATE: _____

Printed Name and Title

DATE: _____

APPALACHIAN ENGINEERED FLOORS, INC.

Signature

DATE: _____

Printed Name and Title

DATE: _____

APPENDIX A